

HUMAN SERVICES BOARD

In re) Fair Hearing No. 15,447
)
Appeal of)

The petitioner appeals the decision by the Department of Social Welfare including her husband on her and her children's ANFC grant, and counting his income as available to the entire household. The issue is whether the petitioner's husband is required by law to be included in the family's ANFC household. The facts are not in dispute.

1. This is another so-called DEFRA case, in which the Department, pursuant to federal statute, mandates the inclusion in an ANFC "assistance group" of the siblings and parents (including step-siblings and stepparents) of all eligible children. In the petitioner's case, prior to March, 1998, she received ANFC for herself and three of her children. On March 16, 1998, the petitioner married a man who is not the children's father.

2. The petitioner's husband works full time. He is required to pay child support for children who do not live with him. The petitioner receives no child support from the father of her children.

3. The Department has determined that her husband must be included in the petitioner's ANFC assistance group and

that his income must be considered as available to the entire household. This has resulted in a reduction in the petitioner's ANFC grant (effective April 15, 1998) from \$737 to \$34 a month. Since the petitioner has a continuing obligation to repay a prior overpayment of ANFC, the amount of ANFC she will actually receive is \$2 a month.

4. The petitioner takes no issue with the facts and figures relied upon by the Department in its determination.

Although she disagrees with the effect and rationale of the regulations in question, she could not dispute that the Department was applying those regulations correctly to her situation.

ORDER

The Department's decision is affirmed.

REASONS

The board has affirmed dozens of cases over the years involving the provisions in the regulations, adopted pursuant to the 1984 DEFRA amendments to the federal ANFC statutes, mandating the inclusion in an ANFC household of all siblings, and parents and stepparents of those siblings, who reside with ANFC-eligible children, and "deeming" the income of those parents and siblings as "available" to the entire ANFC household. See Fair Hearing's No. 6648 et al. and W.A.M. 9 2242.

It is clear in this matter that the Department has

correctly followed what the United States Supreme Court has upheld as a valid procedure for determining the ANFC eligibility of families like those in the petitioner's circumstances.¹ Therefore, the board has no choice but to affirm the Department's decision. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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¹See Bowen v. Guillard, 55 U.S.L.W. 5079 (1998).